

JUDGE SWAIN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

BIENVENIDO RIVERA,

Defendant.

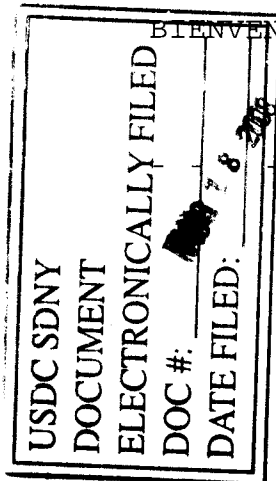
SEALED

INDICTMENT

RD

08 CRIM 776

08 Cr.



COUNT ONE

The Grand Jury charges:

1. From on or about June 18, 2003, up to and

including on or about August 26, 2003, in the Southern District of New York and elsewhere, BIENVENIDO RIVERA, the defendant, and others known and unknown, unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate Title 18, United States Code, Section 664.

Object of the Conspiracy

2. It was a part and object of the conspiracy that BIENVENIDO RIVERA, the defendant, and others known and unknown, unlawfully, willfully, and knowingly would and did embezzle, steal, abstract, and convert to their own use, and to the use of another, moneys, funds, securities, premiums, credits, property, and other assets of "an employee welfare benefit plan or employee

pension benefit plan," as that term is defined in Title 18, United States Code, Section 664, and of a fund connected therewith, in violation of Title 18, United States Code, Section 664.

Overt Act

3. In furtherance of the conspiracy and to effect its illegal object, BIENVENIDO RIVERA, the defendant, and others known and unknown, committed the following overt act, among others, in the Southern District of New York and elsewhere:

a. On or about August 26, 2003, RIVERA, being a shop steward of the United Brotherhood of Carpenters and Joiners (the "U.B.C.J.") assigned to a construction site in the Bronx, New York, signed a false shop steward report that underreported the hours worked by carpenters on the site.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

4. From on or about June 18, 2003, up to and including on or about August 26, 2003, in the Southern District of New York and elsewhere, BIENVENIDO RIVERA, the defendant, and others known and unknown, unlawfully, willfully, and knowingly embezzled, stole, abstracted, and converted to their own use, and to the use of another, moneys, funds, securities, premiums, credits, property, and other assets of "an employee welfare

benefit plan or employee pension benefit plan," as that term is defined in Title 18, United States Code, Section 664, and of a fund connected therewith, to wit, RIVERA, being a shop steward of the U.B.C.J. assigned to a construction site in the Bronx, New York, participated in a scheme whereby he submitted false shop steward reports that underreported the hours worked by carpenters for a construction contractor ("Contractor-1"), thereby aiding and abetting Contractor-1's violation of the terms of the collective bargaining agreement between Contractor-1 and the District Council and Contractor-1's evasion of required contributions to the District Council welfare benefit funds.

(Title 18, United States Code, Sections 664 and 2.)

COUNT THREE

The Grand Jury further charges:

5. From on or about June 18, 2003, up to and including on or about August 26, 2003, in the Southern District of New York and elsewhere, BIENVENIDO RIVERA, the defendant, being a representative of employees who were employed in an industry affecting commerce, to wit, members of the U.B.C.J. who worked for Contractor-1, unlawfully, willfully, and knowingly received and accepted, and agreed to receive and accept, payments, loans, and deliveries of money and other things of value, from an employer and persons acting in the interest of such an employer, to wit, RIVERA, while acting as a shop steward

for the U.B.C.J. at a construction site in the Bronx, New York, received payments from Contractor-1, which had signed a collective bargaining agreement with the U.B.C.J. and was doing work at the construction site.

(Title 29, United States Code, Sections 186(a)(1),
(b)(1) and (d)(2), and 2.)

Forfeiture Allegation

6. As the result of committing the conspiracy offense in violation of Title 18, United States Code, Section 371, alleged in Count One of this Indictment; the employee benefit plan embezzlement offense in violation of Title 18, United States Code, Section 664, alleged in Count Two of this Indictment; and the unlawful acceptance of payments by a labor representative offense in violation of Title 29, United States Code, Sections 186(a)(1), (b)(1) and (d)(2), alleged in Count Three of this Indictment, BIENVENIDO RIVERA, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense alleged in Count Two of this Indictment.


Substitute Asset Provision

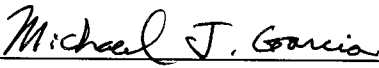
7. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981 and
Title 28, United States Code, Section 2461.)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

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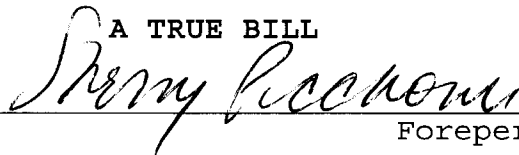
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(Title 18, United States Code, Section
371; Title 18, United States Code,
Sections 664 and 2; Title 29, United
States Code, Sections 186(a)(1),
(b)(1) and (d)(2), and 2.)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL



Foreperson.
